

# Exhibit 44

## Hunters Capital, LLC v. City of Seattle

30(b)(6) Thomas Mahaffey

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HUNTERS CAPITAL, LLC, et al., )

Plaintiff, )

vs. ) No. 20-cv-00983-TSZ

CITY OF SEATTLE, )

Defendant. )

VIDEOTAPED VIDEOCONFERENCE 30(b)(6) DEPOSITION

UPON ORAL EXAMINATION OF

CITY OF SEATTLE

(THOMAS MAHAFFEY)

Seattle, Washington

(All participants appeared via videoconference.)

DATE TAKEN: JANUARY 26, 2022  
REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

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1 (Pages 1 to 4)

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1 **Q. Okay. Is there anything else you understand**  
 2 **that you've been designated for, other than those**  
 3 **topics?**  
 4 A. No. To the best of my understanding, those are  
 5 what I've been designated to talk about.  
 6 MR. CRAMER: And, Tyler, let me clarify  
 7 something.  
 8 MR. WEAVER: Go ahead.  
 9 MR. CRAMER: For 36, it's Subsection iii, as  
 10 that relates to SPD, which I think was probably obvious  
 11 and what you meant. We've also designated the chief for  
 12 37, and specifically each of the subtopics, but  
 13 primarily Subsection iv.  
 14 MR. WEAVER: Okay. All right.  
 15 MR. CRAMER: And that's the extent of it.  
 16 And I think that covers the topics that you wanted to  
 17 pursue at this point in the litigation with the City.  
 18 MR. WEAVER: Thanks, Shane. That helps.  
 19 BY MR. WEAVER:  
 20 **Q. So I'm going to try to keep this first part,**  
 21 **just for subject of -- sake of clarity, to the 30(b)(6)**  
 22 **topics. And can you -- I -- for the purpose -- let's**  
 23 **also set this for the purposes of the deposition, just**  
 24 **so that we're clear going forward and for the -- for the**  
 25 **transcript and the record.**

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1 **What is your understanding of the term "CHOP"**  
 2 **as it relates to this case?**  
 3 MR. CRAMER: Objection. Form.  
 4 A. Well, it's an acronym that I understand to mean  
 5 Capitol Hill -- I think is it occupied protest? I think  
 6 then zone was often found on the end of that. That's  
 7 what I relate to it as.  
 8 BY MR. WEAVER:  
 9 **Q. Let me just go down a different -- a different**  
 10 **route.**  
 11 **So in June of 2020, you were the -- you were**  
 12 **the assistant chief in charge of the patrol operations;**  
 13 **is that correct?**  
 14 A. That's correct.  
 15 **Q. Okay. Do you recall a point at which the**  
 16 **Seattle Police Department modified its 911 response**  
 17 **procedures within an area on Capitol Hill, roughly**  
 18 **around the area of Cal Anderson Park and the East**  
 19 **Precinct?**  
 20 A. I guess I'd ask what you mean by "modified."  
 21 MR. WEAVER: Okay. Let me pull up a  
 22 document so that we can get on track here. Bear with  
 23 me. My apologies. I'm having a bit of technical  
 24 difficulties here.  
 25 (Exhibit No. 2 marked.)

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1 BY MR. WEAVER:  
 2 **Q. Okay. You should have something that's coming**  
 3 **up in the ex -- that's coming up in the chat that's**  
 4 **marked Exhibit 2. Let me know when you've got it up.**  
 5 A. I have it.  
 6 **Q. Okay. So do you recognize this document?**  
 7 A. Yes, I do.  
 8 **Q. Okay. So was this a policy that you announced**  
 9 **for the police department on June 12, 2020?**  
 10 A. I wouldn't have characterized it as a policy.  
 11 It was just some direction given to officers.  
 12 **Q. Okay. This was a direction you gave to**  
 13 **officers in the police department on June 12, 2020; is**  
 14 **that right?**  
 15 A. Yes, that's correct. That's the date it was  
 16 sent out.  
 17 **Q. Okay. Do -- was -- and was this a modification**  
 18 **of -- from -- was this different than the normal**  
 19 **operating procedures within the area of Capitol Hill?**  
 20 A. Yes. Based on the circumstances we were  
 21 facing, I felt it was necessary to give some guidance to  
 22 officers.  
 23 **Q. What do you mean by the circumstances that you**  
 24 **were facing?**  
 25 A. There had been significant protests for the

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1 week prior to this. Now we have an area that has some  
 2 barricades placed around it. We're no longer in our  
 3 precinct. We had seen, and reports of, armed people at  
 4 this barricade.  
 5 We'd actually had a lieutenant and a sergeant  
 6 that were confronted by armed people early -- earlier in  
 7 the week as well. So based on all that was going on,  
 8 some guidance was required for responses in the area to  
 9 keep officers and the public safe.  
 10 **Q. So let me ask you about -- first of all, what's**  
 11 **the Edward Sector?**  
 12 A. That is one of our patrol sectors. Each  
 13 precinct is divided into sectors. Edward Sector is in  
 14 the East Precinct, and the area generally covers in --  
 15 the neighborhood we call Capitol Hill.  
 16 **Q. Okay. And let me ask you, on this document --**  
 17 **first of all, did you -- who's Jason Verhoff?**  
 18 A. He is a lieutenant on the Seattle Police  
 19 Department.  
 20 **Q. And had you written this out for Mr. Verhoff,**  
 21 **or had you dictated it to him to be sent out?**  
 22 A. I don't recall specifically. So he was part of  
 23 the group -- command group in our operations center.  
 24 And as we're recognizing, then formulating plans to deal  
 25 with issues that come up, that was one of his

3 (Pages 9 to 12)

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1 specified -- specific? I don't who it was sent to  
2 directly.

3 MR. WEAVER: Okay. I'm going to drop  
4 another document in the chat. We're getting -- we're  
5 getting fast and furious on the -- on the documents  
6 already, so...

7 (Exhibit No. 5 marked.)

8 THE WITNESS: Okay.

9 BY MR. WEAVER:

10 **Q. All right. So is this an email you sent on**  
11 **June 16th?**

12 A. Just blow it up here a little bit.

13 Yes.

14 **Q. Okay. So in the first sentence, you say, "For**  
15 **clarification, this is what I approved and was sent out**  
16 **department-wide last Friday," and then it appears to**  
17 **have the text of the email from Exhibit 2 down below,**  
18 **towards the bottom of the first page. Is -- am I**  
19 **understanding that correctly?**

20 A. That appears correct, yes.

21 **Q. Okay. So does that refresh you as to whether**  
22 **the Exhibit 2 was sent out to the entire department?**

23 A. That's what I said in the email. But like I  
24 said, I don't -- specifically I don't recall who it was  
25 sent out to, but that's what I'm saying in this email,

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1 were IAPs being sent out with the wording of "mass  
2 casualty event."

3 **Does that help you remember at all when it**  
4 **was -- when the wording was changed to "critical life**  
5 **safety emergency"?**

6 MR. CRAMER: Objection. Form.

7 A. It doesn't. I will say one thing, with IAPs,  
8 especially during this time, we were having -- the  
9 operations center was having to produce so many,  
10 sometimes getting the language caught up or getting  
11 things changed, because of everything else that was  
12 going on from the planning perspective, sometimes they  
13 weren't as timely as they could have been, with getting  
14 changes put into them.

15 BY MR. WEAVER:

16 **Q. Was it your understanding that there was any**  
17 **difference in the -- in the substance of the directive**  
18 **between the directive that used the term "mass casualty**  
19 **event" and the directive that used the term "critical**  
20 **life safety emergency"?**

21 A. Sorry; I'm not quite following your question  
22 there.

23 **Q. Okay. Was the change from "mass casualty**  
24 **event" to life -- "critical life safety emergency" meant**  
25 **to convey a change in department policy or directive?**

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1 yes.

2 **Q. Okay. So I'd like to go back to Exhibit 4,**  
3 **which is the June 24th IAP. And if you could scroll**  
4 **down to -- I think it may be 15 of this one as well.**  
5 **So -- yes, it's 15. I'm sorry. It's 16. Bates**  
6 **No. 7543.**

7 This appears to have similar language to what  
8 we've been talking about, but it uses the term "mass  
9 casualty event" rather than "critical life safety  
10 emergency."

11 Do you see that?

12 A. Yes.

13 **Q. So this was June 24th of 2020. Does this**  
14 **refresh you at all as to when there might have been a**  
15 **change to the wording of "critical life safety**  
16 **emergency"?**

17 MR. CRAMER: Objection. Form.

18 A. Sorry. You said Exhibit 4 says mass casualty  
19 event, or am I on the wrong exhibit or --  
20 BY MR. WEAVER:

21 **Q. I believe it does, on Page 16, if you -- you**  
22 **can look at it, yourself.**

23 A. I'm looking at Exhibit 4, and it's -- says  
24 "mass casualty event" on Page 16.

25 **Q. Okay. So it appears that on June 24th there**

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1 A. No. Again, I think it was just meant to  
2 clarify the wording, and really the -- the premises that  
3 we were operating under, I think it just -- and the  
4 things that we were briefed kind of every day, I think  
5 it was just providing more clarity.

6 **Q. And I'd like you to go to the bottom of the**  
7 **last page on Exhibit 4. This again is a map showing**  
8 **the -- what's -- what were the boundaries of the red**  
9 **zone; is that right?**

10 A. Correct.

11 **Q. And were those the same that they had been in**  
12 **the directive that went out department-wide on June 12th**  
13 **in Exhibit 2?**

14 MR. CRAMER: Objection. Asked and answered.

15 A. Yes. They -- they look the same. I don't see  
16 any significant changes in either map.

17 BY MR. WEAVER:

18 **Q. Let me ask you, with regard to -- and we can**  
19 **go -- we can go to any -- I guess go back up to 16 on**  
20 **Exhibit 4, Page 16.**

21 A. Okay.

22 **Q. Okay. So with regard to Edward Sector, it**  
23 **indicates that a required -- requires a four officer**  
24 **minimum response to all Edward Sector calls for service**  
25 **outside the red zone.**

9 (Pages 33 to 36)

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1 **What does -- what did that mean?**

2 A. For any response for police service, that we  
3 were going to send, again, as it indicates, a minimum of  
4 four officers to that call.

5 **Q. So prior to June 2020, what was the minimum**  
6 **response for a call in the Edward Sector?**

7 A. It would depend on the type of call, again,  
8 with -- what the actual details of the incident were.  
9 But it could be as little as one officer for a  
10 nonpriority event with no suspect on the scene, to many  
11 multiple of officers for some type of ongoing life  
12 safety emergency.

13 **Q. So what -- what was the least number of**  
14 **officers for a particular call that would be a minimum**  
15 **required to respond to a call prior to June 2020?**

16 A. The fewest would be one for a low priority  
17 response.

18 **Q. Okay. And during the -- during the pendency of**  
19 **these directives in June of 2020, even those low**  
20 **priority calls would still require a four officer**  
21 **response? Is that correct?**

22 A. That is correct, yes.

23 **Q. And why was that?**

24 A. Due to just the conditions that we hadn't faced  
25 before, based on -- I will describe it as the negative

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1 feelings and animosity towards Seattle police officers  
2 at that time that was particularly concentrated in that  
3 area of the city.

4 Officers were going to seemingly routine calls  
5 and being accosted by people seeking confrontation even  
6 in routine situations. So again, in just working  
7 through some of these unprecedented circumstances that  
8 were dealt with, again, officer safety being the most --  
9 the thing that was most foremost on my mind during this  
10 period, we determined that this was the best course of  
11 action to take.

12 **Q. Okay. So within the Edward Sector, but outside**  
13 **the red zone, were there cases in which there might be a**  
14 **mass casualty event or a critical life safety emergency,**  
15 **that it would be appropriate under your directive for**  
16 **officers not to respond?**

17 MR. CRAMER: Objection. Form. Calls for  
18 speculation.

19 A. No. But again, depending on the criticality of  
20 the incident, I want them to formulate a thoughtful and  
21 considered response before going in, again, to ensure  
22 their safety, de-escalate, minimize the potential use of  
23 force, and keep the public safe.

24 BY MR. WEAVER:

25 **Q. So when you indicate that it was -- you were**

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1 **trying to keep the public safe by not responding to**  
2 **calls, how was not responding to calls keeping the**  
3 **public safe?**

4 MR. CRAMER: Objection. Form.

5 A. That's not what I mean by that. It's, again,  
6 to -- we're responding to calls. It's just that we're  
7 doing it in a way that allows us to provide service in  
8 the best way that we can.

9 We're just considering the -- again, the  
10 unprecedented circumstances that we were facing at the  
11 time, and the scrutiny, and threat to officer safety  
12 that we were having to deal with.

13 That's what the -- really considerations that I  
14 had to -- to deal with at the time and how we were going  
15 to still provide police services while dealing with all  
16 these other issues that were swirling around us.  
17 BY MR. WEAVER:

18 **Q. So going back to Exhibit 5, in the second**  
19 **paragraph of this email you sent on June 16th, you're**  
20 **asking whether the -- first of all, you sent this to**  
21 **Carmen Best, and then who's Christopher Fisher?**

22 A. He was the chief's -- I believe his title was  
23 strategic advisor.

24 **Q. And you say, "Please let me know if this should**  
25 **be altered or clarified in anyway if it is creating a**

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1 **messaging issue or confusion internally or externally."**  
2 **Do you see that?**

3 A. Yes.

4 **Q. Do you remember asking for that, for any**  
5 **clarification they wanted?**

6 A. Reading this email, that -- now it's bringing  
7 up I did ask that, yes.

8 **Q. Do you recall whether either Chief Best or**  
9 **Officer Fisher indicated that your policy should be**  
10 **altered or clarified in any way?**

11 A. I don't specifically, no.

12 **Q. And you also indicate down below that,**  
13 **"Depending" -- you were going to talk with**  
14 **representatives from the City's department involved in**  
15 **barricade removal, and that, "Depending on how that**  
16 **operation went, I may be able to adjust the current**  
17 **response protocol to the area."**

18 **Do you recall whether the -- you adjusted the**  
19 **current response protocol to the area after barricade**  
20 **removal?**

21 A. It wasn't adjusted because the barricades -- if  
22 this is still June 12th, my recollection, the  
23 barricades -- or June 16th, excuse me, the barricades  
24 were not removed. So protocols were not adjusted.

25 **Q. So the protocols were not adjusted until all**

10 (Pages 37 to 40)

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1 the barricades were removed on the morning of July 1,  
2 2020; is that right?

3 MR. CRAMER: Objection. Form.

4 A. To the best of my recollection, that's correct.

5 MR. WEAVER: We've been going an hour. I  
6 don't know if you want to take a break or -- Shane,  
7 or --

8 MR. CRAMER: Yeah, that works.

9 MR. WEAVER: Okay.

10 MR. CRAMER: Come back in ten?

11 THE VIDEOGRAPHER: Going off the record at  
12 10:01.

13 (Recess from 10:01 a.m. to 10:11 a.m.)

14 THE VIDEOGRAPHER: We are back on the record  
15 at 10:11.

16 E X A M I N A T I O N (Continuing)

17 BY MR. WEAVER:

18 **Q. So do you recall an incident involving a**  
19 **business called Car Tender on, I believe it was,**  
20 **June 14, 2020?**

21 A. I don't.

22 MR. WEAVER: I'm going to pull something up  
23 here, in case you're wondering.

24 THE WITNESS: Okay.

25 (Exhibit No. 6 marked.)

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1 BY MR. WEAVER:

2 **Q. Exhibit 6 should be there, or coming shortly.**

3 A. Okay. I have it.

4 **Q. So do you recognize this document?**

5 A. Yes. It's an email, but it's -- it looks like  
6 it's an overnight situation report that was sent to me  
7 on June 16th.

8 **Q. And who's Tyrone Davis?**

9 A. He at the time sergeant, now he's lieutenant,  
10 but he's still with the Seattle Police Department. He  
11 was working overnights in the police operations center,  
12 which we were running 24/7 at this time.

13 **Q. Okay. And the point was to give you an update**  
14 **of what had happened over the previous 12 hours? Was**  
15 **that -- or whatever the previous shift was? Is that --**

16 A. It was overnights, so it may run 11:00 to  
17 midnight through the -- through the next morning.

18 **Q. What shifts were you working during this period**  
19 **of June -- you know, during the time of June 2020?**

20 A. It might be easier to say when I wasn't  
21 working. I was -- I didn't really have a shift. I  
22 mean, I generally start fairly early in the morning.  
23 Depending on what was going on, I'd be there until late  
24 at night, 11:00, 12:00, sometimes 1:00 a.m., just  
25 depending on what was happening.

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1 **Q. Okay. If you could go down to the bottom of**  
2 **Lieutenant Davis's email. There's a section called "Car**  
3 **Tender Incidents."**

4 A. Yes, I see it.

5 **Q. Okay. Specifically, I'd like you to look at**  
6 **the third paragraph under there called "Note," and then**  
7 **it says, "Car Tender is the same location." If you**  
8 **could just take a minute to read that.**

9 A. Okay. I've read it.

10 **Q. Does that ring any bells for you, as far as Car**  
11 **Tender?**

12 MR. CRAMER: Objection. Form.

13 BY MR. WEAVER:

14 **Q. And the incident on June 14, 2020?**

15 MR. CRAMER: Same objection.

16 A. I'm reading everything through here, and there  
17 was so much happening during that time, I don't recall  
18 this specific.

19 BY MR. WEAVER:

20 **Q. Okay. So I just want to ask you, so Car Tender**  
21 **was at a location at -- it's indicated here, 1706 12th**  
22 **Avenue.**

23 A. Yes, that's what it says.

24 **Q. Do you recall whether that was inside or**  
25 **outside the red zone?**

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1 A. If you don't mind, I'll just look at a map  
2 again.

3 **Q. Sure.**

4 A. Let me get the blocks down. If I remember my  
5 addresses correctly, it would be just -- 1700 block of  
6 12th would be just north of Olive Street, I believe, so  
7 it would be on the border --

8 **Q. You're correct.**

9 A. It would be right -- right on the border of the  
10 red zone.

11 **Q. On the -- on the outside of that border; is**  
12 **that correct?**

13 A. It looks like maybe one block --

14 MR. CRAMER: Objection. Form.

15 A. It's the block -- it's a block just north of  
16 the northern boundary on East Olive Street and 12th  
17 Avenue, is the 1700 block.

18 BY MR. WEAVER:

19 **Q. So I want you to go back to the paragraph we**  
20 **were looking at on Exhibit 6, and Lieutenant Davis says,**  
21 **"Patrol did not respond due to its proximity to the red**  
22 **zone," and then it lists a -- I think it's a cause**  
23 **number, "coupled with an ongoing disturbance at the**  
24 **location that include armed participants."**

25 **Do you see that?**

11 (Pages 41 to 44)



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1 A. I do.  
 2 **Q. If Lieutenant Davis was correct in his**  
 3 **description, would that have been consistent with the**  
 4 **directives you gave about the red zone and the Edward**  
 5 **Sector and police responses?**  
 6 MR. CRAMER: Objection. Form. Foundation,  
 7 calls for speculation.  
 8 A. I would need to know more of the context of the  
 9 incident. We'd given direction to our folks of how we  
 10 wanted them to respond. Ultimately, they have  
 11 discretion in the field about how they're going to  
 12 approach an incident based on the directive and the  
 13 parameters that we had given them.  
 14 But the idea was, is that's why we would get  
 15 these situation reports, knowing that we would have  
 16 incidents that would come up, that we couldn't plan for  
 17 every contingency, and if things came up, how are we  
 18 going to adjust our responses, moving forward, if --  
 19 if -- if that was necessary.  
 20 MR. WEAVER: Okay. I'm going to drop  
 21 Exhibit 7 into the chat.  
 22 (Exhibit No. 7 marked.)  
 23 THE WITNESS: Okay.  
 24 BY MR. WEAVER:  
 25 **Q. And if you can just take a moment to read**

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1 **through Page 2 of this document, Bates No. 156959.**  
 2 A. Okay. I've read it.  
 3 **Q. All right. Does that -- does that refresh any**  
 4 **recollection you might have about what was alleged to**  
 5 **have happened at Car Tender on June 14, 2020?**  
 6 A. It doesn't. I mean, like I say, a lot happened  
 7 during that time. There were a lot of incidents or  
 8 events, and this lays out very clearly what occurred,  
 9 though, in the statement of probable cause.  
 10 **Q. Okay. So if the facts in this statement of**  
 11 **probable cause are accurate and the police did not**  
 12 **respond to this reported situation, would that have been**  
 13 **consistent with the directive that you had given the**  
 14 **police department on how to respond to incidents within**  
 15 **the Edward Sector?**  
 16 MR. CRAMER: Objection. Form and  
 17 foundation, calls for speculation.  
 18 A. Again, the officers have to have latitude and  
 19 discretion based on directives I gave them. I'm reading  
 20 this. It says it's just outside the periphery of the  
 21 zone. And there are some concerning elements of this  
 22 regarding some of the actions of the crowd taken.  
 23 But I know at some point during this, either  
 24 before or after this event -- I don't recall the  
 25 specifics -- that we set up and we designated specific

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1 teams each night that would be able to respond to those  
 2 events that are laid out in the directive.  
 3 And again, this was a very dynamic event and we  
 4 were every day reviewing. That's why these reports --  
 5 situation reports were put out every night. We reviewed  
 6 them every morning to help us better determine and  
 7 coordinate our response to the event, based on -- or the  
 8 area of the red zone, based on what we were seeing.  
 9 Again, we were building this airplane while we  
 10 were flying it, essentially, and we were really  
 11 committed to, again, trying to avoid force,  
 12 confrontation, keep the public and our officers safe.  
 13 BY MR. WEAVER:  
 14 **Q. Within the meaning of the directives that were**  
 15 **in the IAP and your -- and what was sent out**  
 16 **department-wide on June 12th, would the events as**  
 17 **described here in Exhibit 7 be a mass casualty event?**  
 18 MR. CRAMER: Objection. Form.  
 19 A. Again, as I think I said before, that wording  
 20 was unfortunate, and we went to change it. And it  
 21 was -- examples were provided of what an event was, but  
 22 again, the officers, the supervisor, the commander on  
 23 the ground have to make those in-the-moment, on-the-spot  
 24 tactical decisions about how they're going to respond to  
 25 particular events.

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1 BY MR. WEAVER:  
 2 **Q. Okay. Would this be within the meaning of the**  
 3 **June 29th IAP, a critical life safety emergency?**  
 4 MR. CRAMER: Objection. Form. Asked and  
 5 answered.  
 6 A. There's certainly details in here that, if the  
 7 officers had known at the time, I would have wanted them  
 8 to have considered about, are there life safety or other  
 9 elements there that they need to respond to and address,  
 10 whether it's with the resources they have there or  
 11 calling in more resources to address it. I just don't  
 12 know if they had all of these facts available to them at  
 13 the time.  
 14 BY MR. WEAVER:  
 15 **Q. What particular details?**  
 16 A. Let me read through this again quickly.  
 17 MR. CRAMER: And objection. Form.  
 18 Foundation, calls for speculation.  
 19 A. They claim there was a fire lit inside the  
 20 building, so that would be information I think it would  
 21 be important for them potentially to have, and make an  
 22 assessment of what the safety ramifications were to  
 23 that.  
 24 Let me just read through some more of the  
 25 details so I just state them correctly. It says here

12 (Pages 45 to 48)

Page 197

1 adjourned at 3:40.  
 2 (Deposition concluded at 3:40 p.m.)  
 3 (Reading and signing was requested  
 4 pursuant to FRCP Rule 30(e).)  
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## 1 CERTIFICATE

2  
 3 STATE OF WASHINGTON  
 4 COUNTY OF PIERCE  
 5

6 I, Cindy M. Koch, a Certified Court Reporter in  
 7 and for the State of Washington, do hereby certify that  
 8 the foregoing transcript of the deposition of Thomas  
 9 Mahaffey, having been duly sworn, on January 26, 2022,  
 10 is true and accurate to the best of my knowledge, skill  
 11 and ability.

12 IN WITNESS WHEREOF, I have hereunto set my hand  
 13 and seal this 2nd day of February, 2022.



14  
 15  
 16 CINDY M. KOCH, CCR, RPR, CRR

17  
 18 My commission expires:  
 19 JUNE 9, 2022  
 20  
 21  
 22  
 23  
 24  
 25

50 (Pages 197 to 198)